

Brian S. King, #4610
Nediha Hadzikadunic, #15851
Brent J. Newton, #6950
BRIAN S. KING PC
336 South 300 East, Suite 200
Salt Lake City, UT 84111
Telephone: (801) 532-1739
Facsimile: (801) 532-1936
brian@briansking.com
nediha@briansking.com
brent@briansking.com

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

<p>JIM L., CHRISTINE L., and ALEXA L.,</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>ANTHEM BLUE CROSS and the NORTHROP GRUMMAN HEALTH PLAN</p> <p style="text-align: center;">Defendants.</p>	<p>ATTORNEYS' PLANNING MEETING REPORT</p> <p>Civil No. 2:18-cv-00671 DB</p> <p>Magistrate Dustin Pead</p>
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1. PRELIMINARY MATTERS:

- a. The nature of the claims and affirmative defenses is:
- b. This case is _____ not referred to a magistrate judge
_____ X referred to magistrate judge _____
_____ X under 636(b)(1)(A)
_____ under 636(b)(1)(B)
_____ assigned to a magistrate judge under General Order 07-001
and
_____ all parties consent to the assignment for all
proceedings or

_____ one or more parties request reassignment to a district judge

- c. Pursuant to Fed. R.Civ.P. 26(f), the parties have discussed the issues and stipulate to the following proposed schedule. Plaintiffs are represented by Brian S. King and Defendant Anthem Blue Cross is represented by Timothy C. Houpt and Jessica P. Wilde.
- d. The parties _____ request / X do not request an initial pretrial scheduling conference with the court prior to entry of the scheduling order.
- e. The parties _____ have exchanged or X will exchange by **01/18/19** the initial disclosures required by Rule 26(a)(1).
- f. Pursuant to Fed. R. Civ. P. 5(b)(2)(D), the parties agree to receive all items required to be served under Fed.R.Civ.P. 5(a) by either (i) notice of electronic filing, or (ii) e-mail transmission. Such electronic service will constitute service and notice of entry as required by those rules.

2. DISCOVERY PLAN:

This case involves claims for unpaid medical benefits under ERISA, 29 U.S.C. §1132(a)(1)(B), and claims for violation of the federal Mental Health Parity and Addiction Equity Act (“MHPAEA”) brought under ERISA, 29 U.S.C. §1132(a)(3).

As to the claim for unpaid benefits brought under 29 U.S.C. §1132(a)(1)(B), the parties agree that the scope of discovery for an ERISA claim for unpaid benefits brought under 29 U.S.C. §1132(a)(1)(B) is limited but do not agree about the scope of permissible discovery in this case. The Plaintiffs contend that case law and ERISA permit discovery if the Defendants have failed to provide a complete response to requests for information made during the pre-litigation appeal by the Plaintiffs and/or to the extent any conflict of interest by the defendants affected the decision making process in the case. Plaintiffs also contend that where there is any disagreement between the parties as to what the Defendants should have paid for the treatment at issue under the terms of the Plan, discovery is permitted to resolve the question.

Defendants contend that this case should be decided on the pre-litigation appeal record without any supplementation and by entering into this report do not waive their right to object to any proposed discovery or designation of witnesses on that ground.

The Plaintiffs do not believe limiting discovery to any pre-litigation appeal record that may exist for a claim brought under 29 U.S.C. § 1132(a)(1)(B) is appropriate. Plaintiffs request the full scope of discovery allowed by the Federal Rules of Civil Procedure for their MHPAEA claim brought under 29 U.S.C. § 1132(a)(3).

In the event there is a dispute as to the completeness of the administrative record, the amount at issue in the case, and/or the necessity for or permissibility of discovery, a party may bring a motion with the court within 45 days of the production of initial disclosures (which shall include the entire administrative record) to have such issues determined by the court. The motion shall include such discovery as is proposed and a memorandum supporting the proposed discovery.

3. AMENDMENT OF PLEADINGS AND ADDITION OF PARTIES:

- a. The cutoff dates for filing a motion to amend pleadings and/or add parties is:
02/06/19

4. EXPERT REPORTS:

Reports from experts under Rule 26(a)(2) will be submitted on: **N/A**

Plaintiff(s) ____/____/____

Defendant(s) ____/____/____

Counter reports ____/____/____

5. OTHER DEADLINES:

- a. Discovery cutoff: Fact **03/29/19** Expert ____/____/____
- b. (optional) Final date for supplementation of disclosures under Rule 26 (a)(3) and of discovery under Rule 26 (e) ____/____/____
- c. Deadline for filing dispositive or potentially dispositive motions and Daubert motions is **04/30/19**.

6. ADR/SETTLEMENT:

Use separate paragraphs/subparagraphs as necessary if the parties disagree.

- a. The potential for resolution before trial is: ____ good ____ fair ____ poor **x**
unable to determine prior to completion of discovery
- b. This case should be referred to the court's alternative dispute resolution program
for arbitration: _____ mediation: _____

c. The case should be re-evaluated for settlement/ADR resolution on: **04/30/19**

7. TRIAL AND PREPARATION FOR TRIAL:

a. The parties should have _____ days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3) (if different than 14 days provided by Rule).

b. The parties anticipate that this case will be resolved on summary judgment motions. Alternatively, this case should be ready for trial by: December, 2019

Specify type of trial: Jury _____ Bench X

c. The estimated length of the trial is: 2

/s/ Brian S. King
Attorney for Plaintiffs

Date: 12/4/18

/s/ Jessica Wilde
Attorney for Anthem Blue Cross

Date: 12/4/18

Attorney for Plan Defendant

Date: ____/____/____